

Public Library Services Agreement

This Agreement is made by and between Washington County, a home rule subdivision of the State of Oregon hereinafter referred to as “County”, on behalf of Washington County Cooperative Library Services, hereinafter referred to as “WCCLS”, and the Cities of Banks, Beaverton, Cornelius, Forest Grove, Hillsboro, North Plains, Sherwood, Tigard, and Tualatin, and the Cedar Mill Community Library Association and the Garden Home Community Library Association, hereinafter referred to as “Contractor(s)”.

WHEREAS, Washington County has approved funding for countywide library services including non-fee access by County residents to public libraries operated by Contractors; and

WHEREAS, the parties to this Agreement are either units of local government empowered by ORS 190.010 to enter into an intergovernmental agreement or are private non-profit agencies operating public libraries; and

WHEREAS, all parties are desirous of providing residents of Washington County with access to public library services and Contractors are capable of providing such access and services.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. DEFINITIONS

The following definitions shall be used in this Agreement:

- A. WCCLS (Washington County Cooperative Library Services) – An agency of county government that exists to coordinate, contract for or provide a full range of library and information services to all residents of the county.
- B. WCCLS Information Network (formerly known as WILInet) – The system that includes: the shared integrated library system software (circulation, public access catalog, cataloging, serials control and acquisitions software); the WCCLS.org website and its resources; other databases provided by WCCLS for member library or public access; central site hardware and software; software, hardware or appliances provided to member libraries and supported by WCCLS; and the telecommunications network linking Contractors to the system and for Internet access.
- C. Qualified Borrowers – All Washington County residents, residents of counties with which Washington County has reciprocal borrowing agreements, and paid card holders.

- D. West Slope Community Library - The public library that is a department of WCCLS and managed by the County. For purposes of this agreement, West Slope is treated as a Contractor..
- E. Oregon Public Library Statistical Report – The report mandated by ORS 357.520, containing statistics and provided on an annual basis to the Oregon State Library via a reporting format determined by the State Library. Report data is typically due October 1 of each year.
- F. WCCLS Executive Board – the Board established to advise the Board of County Commissioners and the Cooperative Library Services Director on matters pertaining to the funding for countywide library services, distribution of financial resources by WCCLS for the provision of countywide public library services, and long term governance and funding strategies.
- G. WCCLS Policy Group – the Board established to provide technical and professional support and advice to the WCCLS Executive Board, to develop and implement policies and procedures for delivery of countywide public library services, and to advise the Cooperative Library Services Director.

2. TERM OF AGREEMENT

This Agreement shall be in effect from July 1, 2011, through June 30, 2016, except as otherwise provided in Section 11 of this Agreement. .

3. FUNDS

As compensation to Contractor for the services to be provided pursuant to this Agreement, WCCLS agrees to make funding distributions to Contractor on the basis set forth in Section 4 and the Payment Schedule set forth in Section 6.

Each Contractor agrees by receipt of funds from WCCLS to expend those funds to provide library services according to Contractor's established policies, and to ensure that Contractor's library facilities are open for public use by all Qualified Borrowers. Contractors must spend all funds received from WCCLS on the provision of library services, including but not limited to operating and capital expenditures.

4. FUNDING FORMULA

- A. The total payment to be made to each Contractor during the term of this Agreement shall be determined by the method set forth in this Section and shall be based on the figures set forth in EXHIBIT A "Funding Distributions".

- B. Payments to Contractors shall be budgeted in two (2) funding distribution pools.
 - 1. Pool One. Contractors shall each receive equal increases of 2.5% on an annual basis for the Term of this Agreement provided funding is available. For FY2011-12, Contractors shall receive 2.5% increases over the FY2010-11 Reimbursement Formula distributions. For FY2011-12 the total amount in Pool One shall be \$18,938,126.
 - 2. Pool Two. Based on projected increases in the County's assessed valuation and WCCLS revenues, expenditures and reserve funds, a second distribution pool shall be budgeted by WCCLS. After actual County assessed valuation, tax levies and taxes are certified, the WCCLS Executive Board shall recommend whether funds from Pool Two shall be distributed to Contractors, and if so, on what basis. Typically, this shall be determined in January of each year. Any distribution of funds from Pool Two shall be distributed on a separate schedule from Pool One.

5. ADJUSTMENTS IN PAYMENTS

- A. Payments may be adjusted by WCCLS if funding for payments noted in 4.B is less than projected. Amounts paid to each Contractor will be reduced in an amount proportionate to each library's percentage of the total amount available for payment.
- B. WCCLS shall notify the Contractors in writing of any adjustments under this Section upon adoption of the County's budget for the subsequent fiscal year. In the event that reductions in revenue are necessary after the beginning of a fiscal year, the County would give sixty (60) days notification to Contractors, if possible.

6. PAYMENT SCHEDULE

- A. WCCLS agrees to make payments to those Contractors that are cities as follows:
 - 1. 80% (eighty percent) of the total annual payment shall be made on or before December 31; and
 - 2. 20% (twenty percent) of the total annual payment shall be made on or before April 15.
- B. Notwithstanding paragraph 6.A above, a city not formerly a party to a Public Library Services Agreement with WCCLS, that establishes a public library and becomes a party to this Agreement, shall be entitled to receive payment on a monthly basis during the term of this Agreement. The monthly payment shall be 1/12 of the total annual payment. In addition,

WCCLS agrees that any city to which this subsection applies shall be entitled to receive monthly payments for the entire term of any renewal or successor agreement to which it becomes a party, provided funds are available.

- C. WCCLS agrees to make payments to those Contractors that are community libraries (specifically Cedar Mill Community Library Association and Garden Home Community Library Association) and the West Slope Community Library on a monthly basis. The monthly payment shall be 1/12 of the total annual payment.

7. SPECIAL LIBRARY FUND

The County, on behalf of WCCLS, shall maintain a Special Library Fund that shall include:

- A. Any remaining funds from a previous year which shall be carried over to the next year;
- B. All property tax collections made under all County library local option levies;
- C. All transfers of county general funds made to WCCLS;
- D. All interest earnings on the Special Library Fund, in accordance with ORS 294.080(1); and
- E. Other revenues for library services.

8. SERVICES TO BE PROVIDED BY WCCLS

WCCLS agrees to provide the following central support and outreach services to Contractors and West Slope Community Library:

- A. Reciprocal borrowing with other metropolitan area public libraries;
- B. Coordination of countywide library services among Contractors and with regional and state library service providers;
- C. Enhanced reference services including coordination of selection and purchase of subscription databases and other shared electronic resources available through WCCLS.org and coordination of training and education for adult services staff; and interlibrary loan borrowing from and lending to libraries outside of Washington County;
- D. Outreach services to special populations of Washington County residents, including, but not limited to, circulation of materials to those who cannot get to a public library (homebound), information and education about library-related services for child care providers and the children in their care, Latino and other cultural communities.
- E. Coordination of countywide Youth Services activities, including Summer Reading Programs and shared resources;
- F. Courier pick-up and delivery of materials between Contractors and provision of courier connections to regional library delivery systems;

- G. Planning for long-term growth and development of countywide library services;
- H. Operation and maintenance of the WCCLS Information Network as defined in the WCCLS Information Network Agreement; and
- I. Other services to address Long Range Service Plan goals as agreed upon by all parties.

9. SERVICES TO BE PROVIDED BY CONTRACTORS

- A. Each Contractor agrees that Qualified Borrowers will not be charged a fee for the initial circulation or renewal of library materials.
- B. Each Contractor further agrees that, while it is within the sole discretion of the Contractor whether to charge reasonable fees for services other than circulation, Contractor shall apply all fees and policies uniformly to all Qualified Borrowers. Such fees may include special service and overdue fees.
- C. Each Contractor agrees that it will designate a staff member with whom WCCLS deals in administration of this Agreement on behalf of Contractor and who shall be authorized to receive and give any notices that may be required under this Agreement. Unless otherwise designated, this shall be the Library Director for each Contractor and the West Slope Community Library.
- D. Each Contractor shall meet all requirements for Level 5 Libraries as defined in the Admission of New Public Libraries to Washington County Cooperative Library Services, as approved by the WCCLS Executive Board May 23, 2007 and subsequent revisions.
- E. Each Contractor agrees to abide by shared policies and procedures as agreed upon by the WCCLS Policy Group.
- F. Each Contractor agrees to identify its membership in WCCLS through materials' property identification marks, and through public communications such as library printed materials, websites or other publicity materials.

10. RECORD KEEPING

- A. WCCLS agrees to provide each Contractor with a copy of the County's annual audit, upon request by Contractor.
- B. Each Contractor agrees to provide WCCLS with a copy of Contractor's annual audit. For purposes of this Section, the following requirements shall apply:
 - 1. For Contractors which are cities, the audit shall be that of the city, and shall be supplied upon request of WCCLS.
 - 2. For Contractors which are community libraries (specifically Cedar Mill Community Library Association and Garden Home Community Library Association), the audit shall be the result of an

annual review of the Contractor's financial statements made by an independent certified public accountant in accordance with standards of the American Institute of Certified Public Accountants, and shall be supplied by December 31st of each year to WCCLS.

- C. Each Contractor agrees to provide WCCLS with a copy of its Oregon Public Library Statistical Report.

11. TERMINATION

- A. The County shall have the right to terminate this Agreement upon sixty (60) days written notice, if it determines, in good faith through an open, public process, that:
 - 1. The public interest would be served by such termination; or
 - 2. Adequate funds are not available.
- B. Each Contractor shall have the right to terminate this Agreement upon sixty (60) days written notice, if Contractor determines, in good faith, that:
 - 1. The public interest in its jurisdiction or area of service would be served by such termination; or
 - 2. Appropriated funds for Contractor are less than the amount reasonably anticipated.
- C. The County and each Contractor shall have the right to terminate participation in this Agreement separately, and Agreements between remaining parties and the County shall remain in effect.
- D. In the event of the termination by the County or by the Contractor, the County shall provide funding distributions to the Contractor prorated to the date of termination.

12. COMPLIANCE WITH APPLICABLE LAWS

Each party agrees to comply with all local, state, and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.

- A. Equal Opportunity. Contractor hereby agrees that its employees (including applicants for employment) shall not be discriminated against race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status except in case of bona fide occupational qualifications as defined and provided by applicable federal or state law. No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this contract on the grounds of race, color, religion, gender, sexual

orientation, national origin, disability, age, or marital status. Any violation of this provision shall be grounds for cancellation, termination or suspension in whole or in part by County.

B. Compliance with Applicable Provisions of ORS Chapter 279.

ORS 279B.220 through 279B.235 and 279C.500 through 279C.870, as applicable, are incorporated herein by reference. Contractor agrees to:

1. Make payment promptly, as due, to all persons supplying, to Contractor, labor or material for the performance of the work provided for in this contract;
2. Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of the contract;
3. Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished pursuant to this contract; and
4. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

13. INDEMNIFICATION

Each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party. If the indemnifying party is a unit of local government, such indemnifications shall be subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.300, and the Oregon Constitution.

14. DEBT LIMITATION

This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor.

15. INDEPENDENT CONTRACTOR

Each party is an independent contractor with respect to each other party and has no control over the work performed by the other. No party is an agent or employer of another party. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.

16. NOTICE

Any Contractor shall give immediate written notice to the County of any action or suit filed or any claim made against that party that may result in litigation and is directly related to this Agreement.

17. INSURANCE

Each party agrees to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this agreement at levels necessary to protect against public body liability as specified in ORS 30.271. Contractors that are community libraries shall provide certification of insurance upon request.

18. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

19. CAPTIONS

Captions and headings used in this Agreement are for convenience only and shall not be construed or interpreted so as to enlarge or diminish the rights or obligations of the parties hereto.

20. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Agreement is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Agreement unless the result of the holding is a failure of consideration of any party.

21. AMENDMENT

This Agreement may only be amended in writing and with agreement of all parties.

FOR THE CONTRACTOR:

FOR WASHINGTON COUNTY:

Signature

Signature

Title

Title

Date

Date

APPROVED AS TO FORM:

County Counsel

Public Library Service Agreement, Exhibit A
Pool 1 Funding Distributions FY11-12 through FY15-16

Library	FY10-11 Distribution	FY11-12 Distribution	FY12-13 Distribution	FY13-14 Distribution	FY14-15 Distribution	FY15-16 Distribution
Banks	\$ 120,082	\$ 123,084	\$ 126,161	\$ 129,315	\$ 132,548	\$ 135,861
Beaverton	\$ 4,369,770	\$ 4,479,014	\$ 4,590,989	\$ 4,705,764	\$ 4,823,408	\$ 4,943,993
Cedar Mill	\$ 3,228,706	\$ 3,309,424	\$ 3,392,159	\$ 3,476,963	\$ 3,563,887	\$ 3,652,984
Cornelius	\$ 157,805	\$ 161,750	\$ 165,794	\$ 169,939	\$ 174,187	\$ 178,542
Forest Grove	\$ 650,466	\$ 666,728	\$ 683,396	\$ 700,481	\$ 717,993	\$ 735,943
Garden Home	\$ 335,727	\$ 344,120	\$ 352,723	\$ 361,541	\$ 370,580	\$ 379,844
Hillsboro	\$ 4,058,289	\$ 4,159,747	\$ 4,263,740	\$ 4,370,334	\$ 4,479,592	\$ 4,591,582
North Plains	\$ 92,487	\$ 94,800	\$ 97,170	\$ 99,599	\$ 102,089	\$ 104,641
Sherwood	\$ 686,849	\$ 704,020	\$ 721,620	\$ 739,661	\$ 758,152	\$ 777,106
Tigard	\$ 2,868,380	\$ 2,940,089	\$ 3,013,591	\$ 3,088,931	\$ 3,166,155	\$ 3,245,308
Tualatin	\$ 1,249,437	\$ 1,280,673	\$ 1,312,690	\$ 1,345,507	\$ 1,379,145	\$ 1,413,623
West Slope	\$ 658,222	\$ 674,678	\$ 691,545	\$ 708,833	\$ 726,554	\$ 744,718
Totals	\$ 18,476,220	\$ 18,938,126	\$ 19,411,579	\$ 19,896,868	\$ 20,394,290	\$ 20,904,147